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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,857	12/30/2003	Randall Cornfield	ICS-handle	6240
7590 DAN M. DE LA ROSA, Esq. 300 EAST 77th STREET, SUITE 24C NEW YORK, NY 10075			EXAMINER WILLIAMS, MARK A	
			ART UNIT 3673	PAPER NUMBER
			MAIL DATE 08/19/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/748,857

Applicant(s)

CORNFIELD, RANDALL

Examiner

MARK A. WILLIAMS

Art Unit

3673

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 45-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 52 and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not understood in the context of the claim language exactly what is meant by “extend outwardly toward one another and then tapers adjacent...”.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 45-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gebhardt, US Patent Des.373,289 in view of Garon, US Patent D476,535

Gebhardt provides a handle implement comprising an elongated body having a tapered front side and a tapered rear end, top and bottom surfaces and opposing sides, said body being generally rounded and being generally parallel to a longitudinal axis at the center of said body, said tapered front side and said tapered rear end are situated on and taper toward said longitudinal axis at the center of said body, said tapered end leading to a tip end which is situated on the outermost surface of said implement, said tip end is situated on and tapers towards said axis (best seen in figures 2 and 3); a thumb positioning section situated on said top surface of said body adjacent to said front side of said body, said thumb positioning section sloping downwardly on opposing sides of said body, said thumb positioning section comprising a thumb rest section; and an index finger rest section situated on said bottom surface of said body adjacent to said front side of said body; an encircable section situated adjacent said rear end of said body, said section being generally rounded in its circumference. The encircable section is designed to support user's palms and three fingers. The thumb positioning section is situated above said index finger rest section; the thumb rest section protrudes relative to said thumb positioning section. As best understood, the tapered front and rear ends extend outwardly toward one another and then tapers adjacent said

index finger rest section; and the tapered front and rear ends extend outwardly toward one another and then tapers adjacent said thumb positioning section.

Gebhardt discloses the claimed invention except explicit teaching of (1) the thumb positioning section comprising a concave indentation; (2) the index finger rest section comprising a cavity with an extended protrusion, said protrusion designed to cover at least a portion of user's index finger; (3) the thumb positioning section further comprising an outer rim; (4) the thumb rest section is recessed relative to said thumb positioning section; (5) an aperture situated adjacent said rear end of said body; and (6) the thumb rest section is constructed of a different material relative to said body and said thumb positioning section. However, it should be noted in the crowded art of handle designs, particularly knife handle designs, there are a wide range of known configurations, and each of these structural elements (1)-(6) are known in the art.

Regarding (1), (3), and (4), Garon provides the claimed structure. One skilled in the art would know that such a configuration allows for added traction surface for a user's thumb during use of the knife during cutting. It would have been obvious to modify the design of Gebhardt in this way, for the purpose of providing an alternative design that would have included an additional traction surface for a user's thumb during use of the knife during cutting.

Regarding (2), Garon broadly provides the claimed structure, since as seen in the figures there is a cavity region adjacent an extending protrusion near the front of the knife handle. Such structure inherently covers at least a portion of a user's index finger when in use as intended. One skilled in the art would know that such a design provides at least some degree of shielding of one's finger during use. It would have been obvious to modify the device in this way, for the purpose of providing additional means for protecting ones finger during use.

Regarding (5), the examiner serves Official Notice that such openings are old and well known in the art of handle designs, and may provide the function of allowing for hanging of the knife for storage, in the known manner. It would have been obvious to modify the device in the ways so as to provide means for storing the knife in a known manner.

Regarding (6), it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device in this way, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. Such a modification would have produced no unexpected results, and is not novel. On

advantage to such a modification is that such a material would add in the gripping of the device.

Response to Arguments

5. Applicant's arguments with respect to the claims of record have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

This action is non-final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK A. WILLIAMS whose telephone number is (571)272-7064. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter M. Cuomo/
Supervisory Patent Examiner, Art Unit 3673

/Mark A. Williams/
Examiner, Art Unit 3673